

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Jonathan Andrew Perfetto

v.

Civil No. 15-cv-345-PB

William E. Bennett, Sr., and
Jacqueline A. Bennett

REPORT AND RECOMMENDATION

Jonathan Perfetto's complaint (doc. no. 1), seeks a lien on the social security income of defendants, alleging that each misappropriated his money, and abused their positions as holders of a power of attorney for Perfetto. The matter is before the court for preliminary review pursuant to 28 U.S.C. § 1915(e) (2) and LR 4.3(d) (2).

Subject Matter Jurisdiction

Federal courts are "courts of limited jurisdiction." Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994). The burden is on the plaintiff to affirmatively allege jurisdiction and prove it. Id. In the absence of subject matter jurisdiction, the court must dismiss the action. Fed. R. Civ. P. 12(h) (3).

Construing Perfetto's pro se pleadings liberally, see Erickson v. Pardus, 551 U.S. 89, 94 (2007), this court concludes

that plaintiff has asserted state law claims against defendants, and that there is no jurisdictional basis for Perfetto's claims to be heard in this court. Plaintiff does not specifically invoke the United States Constitution or other federal law in asserting his claims, and no federal claim arises from the facts alleged. Moreover, Perfetto alleges an amount in controversy under \$10,000, well below the requisite jurisdictional amount for lawsuits between citizens of different states.

Conclusion

For the reasons set forth above, the district judge should dismiss the complaint for lack of subject matter jurisdiction, without prejudice to Perfetto's ability to file his claims in a state court of competent jurisdiction. Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See Garayalde-Rijos v. Munic. Of Carolina, 747 F.3d 15, 21-22 (1st Cir. 2014).



Andrea K. Johnstone
United States Magistrate Judge

November 19, 2015

cc: Jonathan Andrew Perfetto, pro se